



Town Center Bank

Where banking is still a people business

(D. Powell)
D. Powell

September 19, 2005

Honorable Donald E. Powell, Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Mr. John F. Carter, Regional Director
Federal Deposit Insurance Corporation
25 Jessie Street at Ecker Square, Suite 2300
San Francisco, California 94105

RE: Comments Regarding FDIC Application #20051977;
Wal-Mart Application for Insurance and Industrial Bank Charter

2005 SEP 22 AM 10 21

Dear Chairman Powell and Mr. Carter:

I am writing on behalf of approximately 250 shareholders, 40 employees and 2,000 customers of Town Center Bank to comment on the Wal-Mart Stores, Inc. application for a Utah industrial bank or industrial loan company charter ("ILC") and federal deposit insurance. I am adamantly opposed to the application and urge the FDIC to deny the application. Further, I request the FDIC conduct a public hearing on the application and the serious public policy issues it raises.

Although Wal-Mart professes a narrow business plan for the ILC, the application nonetheless presents very serious public policy issues regarding the appropriate structure of our financial and economic system. The application by the world's largest company – with \$290 billion in revenue, 3,600 US retail stores, 1.25 million US employees and more than 100 million customers a week – presents issues involving the mixing of banking and commerce, impartial allocation of credit, economic concentration, banking supervision, extension of the federal safety net and losses to taxpayers and community disinvestment. For the reasons presented below, I urge the FDIC to deny the application.

The Wal-Mart Application, Past Failed Attempts to Enter the Banking Business

Wal-Mart's current business plan for the ILC is narrowly described as providing back office processing of credit card, debit card and electronic check transactions in Wal-Mart stores.

While the application itself is narrowly drawn, Wal-Mart has had a well-publicized mission to get into the banking business despite the existing legal and regulatory barriers established on long-held public policy grounds to prevent the full blown mixing of banking and commerce in our nation. Wal-Mart's repeated past attempts to gain a foothold in banking and combine full-service banking with its retail operations on a nationwide basis give rise to skepticism about its current narrow business plan.

Your office is no doubt aware of the several previous attempts by Wal-Mart to enter the banking arena.

Honorable Donald E. Powell, Chairman
Mr. John F. Carter, Regional Director
September 19, 2005
Page Two

Despite any current non-legally binding pledges from Wal-Mart regarding its business plan for a Utah ILC – such as a “no branching” pledge – I see nothing to prevent Wal-Mart from chartering the ILC on a narrow business plan, and later seeking the approval of the Utah Department of Financial Institutions and the FDIC to expand its business and conduct full service banking in its stores. I also see nothing to prevent any conditions placed on the approval of a narrow charter by the Utah DFI being removed in the future upon application by the Wal-Mart ILC.

Conflict of Interest Inherent in Mixing of Banking and Commerce

The linchpin of the financial and economic system of the United States is the principle of the separation of banking and commerce. This tradition has resulted in the most vibrant, successful and diversified economic and financial system in the world. The walls separating banking and commerce prevent conflicts of interest and undue concentration of resources, and ensure the impartial allocation of credit so vital to economic growth and development and to a safe and sound financial system.

The Wal-Mart application presents a prime example of the dangers of concentration of resources and impaired credit availability that flow from allowing a commercial company such as Wal-Mart to own a bank or ILC. And in Wal-Mart’s particular case, these dangers are amplified because of the company’s enormous size, market clout and role in destroying the vitality of many small town centers.

Impact on Consumers, Community Disinvestment

Consumers and households likewise will be ill-served by a Wal-Mart bank. If the past is prologue, local banks, just like local retailers in towns where Wal-Mart has located, will no longer be able to compete. While the initial effect may be cheaper services at the Wal-Mart bank, the long-term effect will be reduced choices for consumers as the number of financial services providers shrinks, and as the products become more commoditized.

A Wal-Mart owned bank will not be able to look at other factors beyond a consumer’s credit score to understand the customer’s individual circumstances and cannot make the customer a loan based on a long-standing relationship and personal knowledge of the customer – something community banks do every day.

Moreover, there is the danger that Wal-Mart will export deposits out of our local community. This has been the current pattern of the large retailer when it establishes itself in a local community. The retailer’s deposits do not stay with the local banks, but rather are transferred to the store’s central headquarters. This pattern in the past has had a devastating effect on local communities as retail dollars spent in the community are exported elsewhere and do not remain in the community to support local lending and economic development.

Safety and Soundness Concerns, Holding Company Supervision

The Wal-Mart application also illustrates that the affiliation of banks and nonbanking companies presents conflicts of interest and safety and soundness concerns. Federal Reserve Chairman Alan Greenspan has repeatedly argued that the mixing of banking and commerce presents safety and soundness concerns and poses the specter that the federal safety net protecting depositors of insured institutions will spread to non-depository affiliates, thereby introducing additional risks to the deposit insurance funds and the taxpayers.

Honorable Donald E. Powell, Chairman
Mr. John F. Carter, Regional Director
September 19, 2005
Page Three

Because of the ILC loophole in the Bank Holding Company act, parent companies of ILCs, unlike other companies that own banks, are not regulated at the holding company level by the Federal Reserve. "Allowing a commercial firm to operate a nationwide bank outside the supervisory framework established by Congress for the owners of insured banks raises significant safety and soundness concerns and creates an unlevel competitive playing field," the Federal Reserve has testified. "Congress has established consolidated supervision as a fundamental component of bank supervision in the United States because consolidated supervision provides important protection to the insured banks that are part of a larger organization and to the federal safety net that supports those banks. Financial trouble in one part of an organization can spread rapidly to other parts. To protect an insured bank that is part of a larger organization, a supervisor needs to have the authority and tools to understand the risks that exist within the parent organization and its affiliates and, if necessary, address any significant capital, managerial, or other deficiencies before they pose a danger to the bank."

Wal-Mart's enormous size makes these considerations and the risk posed to the Bank Insurance Fund and taxpayers in the event Wal-Mart experiences financial difficulties more acute.

While the FDIC would have the authority and tools to address safety and soundness problems confined to the Wal-Mart ILC, it lacks the essential tools the Bank Holding Company Act gives the Federal Reserve to oversee and supervise bank holding companies and ensure the safe operation of the overall enterprise. For example, the Federal Reserve's supervisory authority over bank holding companies includes: general examination authority, consolidated umbrella supervision, capital requirements and enforcement authority for unsafe and unsound activities at the parent company or affiliate. This lack of safeguards at the holding company level puts the Wal-Mart bank, the Bank Insurance Fund, and taxpayers at jeopardy for trouble at its parent company.

Conclusion

For the reasons stated herein, I am urging the FDIC to reject Wal-Mart's application for federal deposit insurance for a Wal-Mart ILC. The application presents serious public policy issues inherent in the mixing of banking and commerce and in the ILC loophole and warrants a public hearing to allow adequate public comment. The issues presented – conflicts of interest, economic concentration, lack of impartial credit decisions, inadequate holding company supervision, and inappropriate extension of the federal safety net – are amplified by Wal-Mart's size and market clout. The threat of community disinvestment is particularly acute in this case because of Wal-Mart's track record and destructive impact in hundreds of communities across the United States. Our nation's long-standing principle of separation of banking and commerce, reaffirmed in the Gramm-Leach-Bliley Act, is the underpinning for our stable and highly successful economic and financial system, and should not be allowed to be skirted by the world's largest commercial company.

Sincerely,



Bruce G. Bryant
President & CEO

BGB/jj